

REMARKS

Applicants thank the Examiner for the courtesies he extended to their undersigned attorney in the personal interview conducted August 14, 2003. The undersigned is particularly appreciative of the Examiner's candor in explaining his interpretations of the claims and the Montierth reference.

The undersigned learned at the interview for the first time exactly how the Examiner was interpreting the limitations in the claims regarding the thickness of the claimed increased thickness portion of the partition wall. As explained at the interview, the undersigned is of the belief that the Examiner's interpretation of the word "thickness" in the claims, when applied to the Montierth reference, is far broader than any reasonable interpretation that a person skilled in the art would ascribe to the claim language in light of the specification of this application or in light of the Montierth reference. As explained in the Interview Summary, the Examiner is of the opinion that walls 37 and 39 of Montierth "together defined a hollow wall having a thickness that was greater than that of the walls 38."

In order to dispel any question as to the "thickness" to which the claims are directed, applicants have amended claims 1, 4 and 5 to clarify that the thickness is measured in a direction normal to a surface of the wall and not in a way that would permit the reading of the claims on Montierth as proposed by the Examiner.

Applicants respectfully submit that this amendment does not raise new issues, in view of the fact that the Actions in this application prior to the pending Action do not set forth the Examiner's interpretation in a way that is clear enough to apprise a reasonable applicant of the Examiner's interpretation of the claims as applied to Montierth. In the first Action on the merits of the present round of prosecution, dated September 6, 2002 (Paper No. 10), the Examiner construed Montierth on page 3 of the Action as disclosing a monolithic ceramic filter "wherein an increased thickness portion (e.g., the portion including parts 37 and 39 surrounding openings 36) has an increased thickness as compared to a remaining basic portion 38 of the partition wall."

Applicants' Amendment filed March 6, 2003, took issue with this statement, stating on page 3 that "from what Montierth says, it is apparent that *all* of the walls 37-39 are thin, so there is no basis for concluding as the Examiner does that the portion including walls 37 and 39 is thicker than wall 38." [Emphasis in original.] In response to this argument, on page 2 of the pending Action, the Examiner repeated exactly the same language as in the first Action, without acknowledging in any way the substance of applicants' argument. On page 6 of the Action, the Examiner argues, "Applicant should note that the thickness of the increased thickness portion is equal to a vertical height of the wall segment 39 plus twice the thickness of the wall segment 37 which is obviously much greater than the thickness of the walls 38," but this is the first time in the prosecution of this application that the Examiner's interpretation of the word "thickness" emerged in any way other than in its ordinary meaning as the transverse thickness of a portion of a wall. Under these circumstances, applicants could not have presented the amendments above any sooner, and applicants respectfully submit that the amendments do not raise new issues because they respond directly to the Examiner's erroneous interpretation of the claims made for the first time in the pending Action.

In any event, the Examiner's interpretation of the word "thickness" is unreasonably broad and flies in the face of the ordinary understanding of persons skilled in the art. There is nothing in the specification of this application to indicate that the Examiner's interpretation is at all reasonable, especially in view of the fact that all of the walls disclosed in this application are solid, not hollow except for occasional conduits 14, and thus do not correspond to the Examiner's interpretation of "thickness" as encompassing not only a transverse thickness of a single wall but also "empty" space between adjacent walls. Applicants recognize that the interpretation of claims in examination before the PTO is broad, but applicants respectfully note that even the broad interpretation employed by Examiners must be reasonable, as explained in MPEP 2111, which emphasizes that the broadest reasonable interpretation of the claims must be consistent with the interpretation that those skilled in the art would reach, given the plain

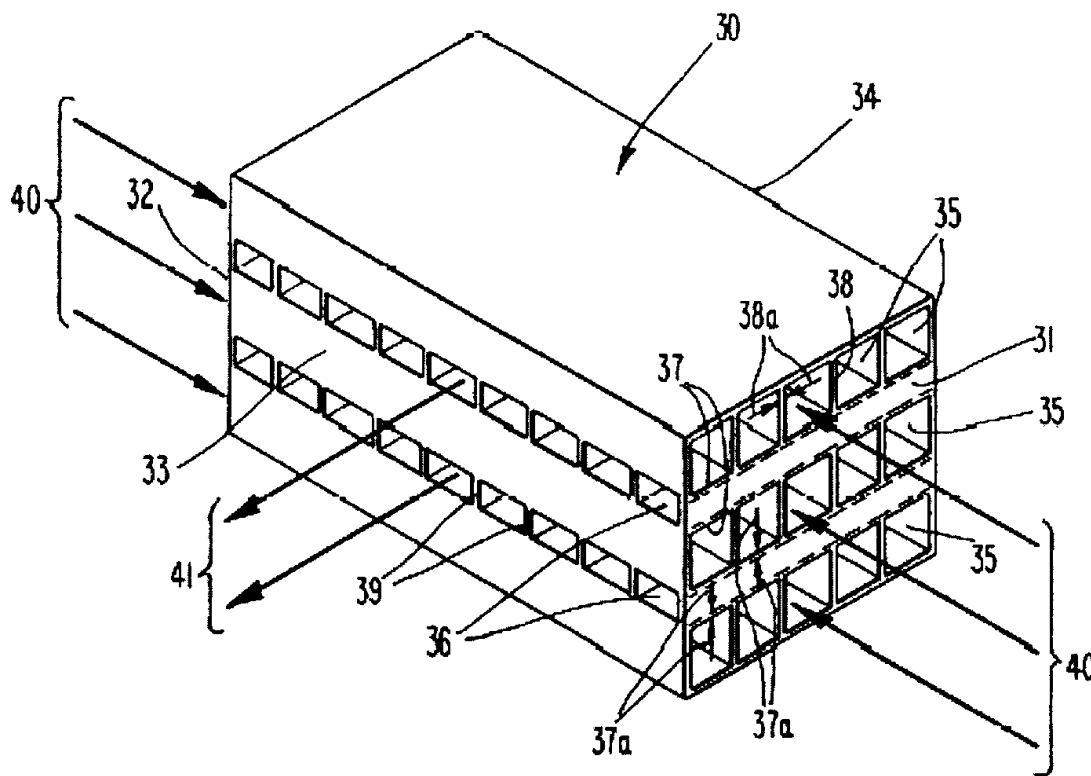
meaning of the words of the claimed. The Examiner's interpretation of "thickness" goes far beyond any claim meaning that would occur to persons skilled in the art reading this application and therefore is unreasonable as a matter of law.

Claims 1, 2 and 4-7 have been rejected under 35 USC 102(b) as anticipated by Montierth. This rejection is respectfully traversed because Montierth does not identically disclose the subject matter of these claims as amended.

Montierth does not disclose the claimed increased thickness portion of the partition wall. The Examiner continues to read the claimed partition walls as corresponding to Montierth's walls 37-39 and states that the increased thickness portion is "the portion including parts 37 and 39 surrounding openings 36" which "has an increased thickness as compared to a remaining basic portion 38 of the partition wall." Careful review of Montierth's FIG. 5, which the Examiner acknowledged at the interview is the portion of Montierth to which he is referring to support this argument, shows that Montierth discloses no such increased thickness portion at all.

Montierth's filter as disclosed in FIG. 5 (which is reproduced below for the Examiner's ease of reference) has two sets of openings, denoted with reference numerals 35 and 36. As explained in the passage at col. 8, line 65 – col. 9, line 10, of Montierth:

The filter comprises a multiplicity of *thin* porous intersecting walls 37, 38 and 39 which define *identical* inlet end faces 31 and 32 (hidden) on a first pair of opposing sides of the filter 30 and an outlet end face 33 on another side of the filter 30 extending between the inlet faces 31 and 32. Horizontal *thin* walls 37 and vertical *thin* walls 38 intersect one another to define an inlet group of cells 35 open at and extending longitudinally in layers through the filter 30 between the inlet end faces 31 and 32. The *thin* walls 37 define with intersecting *thin* walls 39 outlet cells 36 open at and extending from the outlet end face 33 laterally through the filter 30 in layers alternated with the layers of inlet cells 35. [Emphasis added.]



Thus, from what Montierth discloses in FIG. 5 and says in the disclosure explaining FIG. 5, it is apparent that *all* of the walls 37-39 are thin, so there is no basis for concluding, as the Examiner does, that the portion including walls 37 and 39 is thicker than wall 38. Furthermore, Montierth does not consider, and does not teach, that any of its walls have a thickness which is “a vertical height of the wall segment 39 plus twice the thickness of the wall segment 37,” as argued by the Examiner. This view is confirmed by the dotted lines on face 31 of the filter of FIG. 5, which show that walls 37 are of the same thickness as walls 38 and 39 on the same face. Persons of ordinary skill in the art would not have been put in possession of this aspect of the claimed invention by Montierth, since Montierth gives no indication that walls 37-39 are to be of different thicknesses and FIG. 5 shows that they are of the same thickness. Therefore, Montierth

does not disclose any increased thickness portion as claimed, nor is there is any reason to believe that walls 37 and 39 provide a reduced flow resistance flow portion as claimed. Accordingly, the rejection of claims 1, 2 and 4-7 as anticipated by Montierth should be withdrawn.

The obviousness rejections of claims 8, 17-19 and 21 all rely on an alleged teaching in Montierth of an increased thickness portion. Since Montierth does not provide such a teaching, as explained above, the remaining references do not complete a *prima facie* case of obviousness because there is no motivation in any of the prior art to modify any of the disclosed structures so as to arrive at the claimed invention. These rejections should likewise be withdrawn.

Early action allowing the claims in this application is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 356312000121.

Respectfully submitted,

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By:



Barry E. Bretschneider
Registration No. 28,055

Morrison & Foerster ^{LLP}
1650 Tysons Boulevard, Suite 300
McLean, VA 22102-3915
Telephone: (703) 760-7743
Facsimile: (703) 760-7777